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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/574,145

03/29/2006

Leendert Van Der Tempel

GB 030180

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7590

09/15/2009

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

PEACE, RHONDA S

ART UNIT

PAPER NUMBER

2874

MAIL DATE

DELIVERY MODE

09/15/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/574,145	Applicant(s) VAN DER TEMPEL, LEENDERT	
	Examiner Rhonda S. Peace	Art Unit 2874	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 4-7,9,10,12-17 and 21-25.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: the arguments submitted 9/1/2009 are found unpersuasive. See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/UYEN-CHAU N. LE/
Supervisory Patent Examiner, Art Unit 2874

/Rhonda S. Peace/
Examiner, Art Unit 2874

Applicant's arguments filed 9/1/2009 have been fully considered but they are not persuasive.

With respect to the rejected claims, Applicant argues the combination of Green (US 2002/0068389) and Harari et al (US 5,786,988) fail to disclose or render obvious the current invention for the following reasons: (1) Harari et al fails to disclose or suggest any variation in a groove or indentation itself to create adjoining troughs and ridges and while the grooves or other indentations disclosed in Harari et al may be closely spaced, nowhere is there a suggestion of them being so closely spaced as to form adjoining troughs and ridges, and any comparison between components 12 and 16 of Harari et al to "adjoining troughs and ridges" is instead based on impermissible hindsight; (2) The layer 2 of Green is not a "flexible first layer in contact with a second layer having a corrugated structure," as layer 2 is formed of rigid glass with weakened regions 4 and is in contact with a flexible layer (i.e. mounted on a plastic substrate); (3) Green fails to disclose a layer having a corrugated structure and instead discloses separate components 12 and 16 each separately mounted upon a common layer 2. The Examiner respectfully disagrees with the assertions made by the Applicant in these remarks.

To the Applicant's first argument, the Examiner disagrees and maintains Harari et al discloses adjoining troughs and ridges as required by the claim. The recited phrase "adjoining troughs and ridges" is significantly broad and only requires a layer geometry which exhibits alternating portions of depressed and elevated areas. The Applicant seems to suggest the topography of the layer in Harari et al does not comprise "adjoining troughs and ridges" since, for example, the troughs in the layer have a given spacing which exceeds the spacing seen in "adjoining troughs and ridges." Such an assertion is incorrect as the claimed phrase does not impart such a level of structure as to require a certain width between, for example, troughs within the adjoining trough and ridge topography. Moreover, as clearly seen in Figures of Harari et al, the elevated portions ("ridges") are formed entirely along the length situation between two depressed portions ("troughs"), as the transition between two adjacent an adjacent trough and ridge is vertical in nature. As is also clearly seen in the Figures of Harari et al, the elevated and depressed regions each comprise a substantially flat portion.

To the Applicant's second argument, the Examiner disagrees and maintains Green discloses a flexible first layer 2 in contact with a second layer comprising portions 12 and 16 having a corrugated structure. The material composition of layer 2 does not prevent the layer from being considered "flexible," as such is a relative term in the art and the claim does not provide a standard for ascertaining the requisite degree of flexibility of the layer. Certainly glass is a material in the art well known for use in flexible applications, such as for optical fibers. Moreover, Green clearly shows the layer is flexed, and the inclusion of the weakened regions 4 clearly shows the layer (including the weakened regions) is a flexible layer.

To the Applicant's third argument, the Examiner disagrees and maintains the combination of components 12 and 16 of Green disclose a layer having a corrugated structure. Applicant appears to argue that as the components are formed separately from one another that their combination cannot be considered a "layer," since the components are not mounted to a common material aside from layer 2. However, such an assertion is incorrect as the claimed term "layer" is significantly broad in nature, since the term "layer" in its broadest reasonable sense only described a region of space, and does not require the structure as implied by the Applicant.